

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

WP(C).No. 2425 of 2004(L)

AGAINST THE ORDER DATED 21/11/2003 IN IA.3720/03 IN
OS.278/2002 of ADDL.MUNSIFF COURT, CHERTHALA

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PETITIONER:

P.K.RAJU,
PARIYARAMVELY HOUSE, KARIKADU MURI,
THANNEERMUKKOM VILLAGE.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:

1. THE CHERTHALA CO-OPERATIVE URBAN
BANK LIMITED, REPRESENTED BY THE PRESIDENT,
CHERTHALA.
2. THE CHERTHALA CO-OPERATIVE URBAN
BANK LIMITED, REPRESENTED BY THE SECRETARY,
CHERTHALA.

BY ADV. SRI.M.SASINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON I.A.NOS. 8045/05, 9402/06 & 15710/06 IN WPC 2425/04

DISMISSED

14/12/2006

SD/-M.SASIDHARAN NAMBIAR,JUDGE.

APPENDIX:

EXT.P1: COPY OF PLAINT DT.6/4/02 IN OS 278/02 BEFORE MUNSIFF'S COURT,
CHERTHALA

EXT.P2: COPY OF APPLICATION IN IA 3720/03 FILED BY PETITIONER

EXT.P3: COPY OF ORDER DT.21/11/03 PASSED BY ADDL.MUNSIFF, CHERTHALA

//True copy//

PA TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 2425 OF 2004

Dated 14th December 2006

JUDGMENT

Petitioner is plaintiff in O.S.278/2002 on the file of Munsiff court, Cherthala. Respondents are defendants. Case of petitioner was that respondents have manipulated three loan applications to create an impression that loan was advanced to petitioner and no such loan application was submitted by petitioner and he filed I.A.3720/03 an application to re-open the evidence and to send the document to an expert and thereafter to refer the case to Judicial First Class Magistrate, Cherthala for prosecution as provided under Section 340 of the Cr.P.C. As per Ext.P3 order learned Munsiff dismissed the application which is challenged in this petition filed under Article 227 of Constitution of India.

2. Learned counsel appearing for petitioner and respondents were heard. Arguments of learned counsel appearing for petitioner was that none of the objections were not properly considered by learned

Munsiff in Ext.P3 order and when documents produced before the court are forged document, court is bound to take action as provided under Section 340 of the Code of Criminal Procedure and therefore Ext.P3 order is to be quashed. Learned counsel appearing for respondents submits that there is no reason to interfere with Ext.P3 order.

1. 3. If the court on the evidence finds that documents are forged, while documents are in the custody of court, it is for the court to prefer a complaint as provided under Section 340 of the Code. It is for the learned Munsiff to consider, at the time of evidence, whether forgery was committed after the document was produced before the court. If the court finds that any forgery was committed, court may consider whether action is to be taken as provided under Section 340 of the Code of Criminal Procedure.

Writ petition is disposed.

**M.SASIDHARAN NAMBIAR,
JUDGE.**

uj.